IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 22172 of 2003(M)

PETITIONER:

SARASWATHI AMMA W/O. P.V.GOPINATHAN NAIR, PONPILAVIL HOUSE,ELAMBULASSERY POST, KARIMBUZHA 2ND VILLAGE, OTTAPALAM TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.A.R.GANGADAS

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY, DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM.

2. REVENUE DIVISIONAL OFFICER, REVENUE DIVISIONAL OFFICE, OTTAPALAM, PALAKKAD DISTRICT.

3. OFFICE OF THE ACCOUNTANT GENERAL OF KERALA, THIRUVANANTHAPURAM.

4. THE TALUK TAAHSILDAR, TALUK OFFICE, OTTAPALAM.

5. SMT. DAMAYANTHI, ELAVALLI MULLAKKATTIL VEEDU, THIRUMITTAKKODE P.O., ERUMKOOTTOOR, KOOTTANAD, OTTAPALAM TALUK

BY ADV. SMT.C.V.BINDU
GOVERNMENT PLEADER SHRI.BENCHAMIN PAUL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON 26/06/2007 DELIVERED THE FOLLOWING:

W.P(C).No. 22172/03.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE APPLICATION DTD.10.7.2002.

P2. COPY OF THE LETTER DTD.1.2.2003 BY r4.

P3. COPY OF THE ORDER DTD.18.2.84 BY JFCM, OTTAPALAM IN MC.NO.53/82.

P4. COPY OF THE LETTER DTD.1.6.95 BY R2 TO THE PETITIONER.

Sdk+

///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.22172 of 2003

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Dated this the 26th day of June, 2007

J U D G M E N T

The petitioner is the widow of late P.V.Gopinathan Nair, who retired from service as a Village Man in 1994 and died on 25.12.2001. For the purpose of claiming family pension, the petitioner applied for a legal heirship certificate before the 4th respondent, which was not granted in view of a rival claim put forward by the 5th respondent, also as the widow of late P.V.Gopinathan Nair.

2. The 5th respondent is stated to have filed a counter affidavit which is not available in the file, a copy of which has been made available at the time of hearing, in which the 5th respondent contends that the marriage between the 5th respondent and late P.V.Gopinathan Nair was solemnized when the 5th respondent was 8 years old

as "*Kettukallyanam*" and when she attained majority, their marriage was further solemnized as per the religious custom. She also produced copy of the ration card in which her husband's name is shown as Gopinathan Nair. However, the petitioner has now produced before me, along with her reply affidavit, a judgment of the Chief Judicial Magistrate Court, Pattambi, in M.C. No.33/1984 in which the 5th respondent claimed maintenance from one Sri.Radhakrishnan on the ground that she was married to the said Radhakrishnan on 20th *Edavam* 1156 (M.E) which corresponds to the year 1981. If the 5th respondent was originally married to late P.V.Gopinathan Nair at the age of 8 and later, after attaining majority, marriage with late Gopinathan Nair was solemnised again, she could not have filed a claim against Radhakrishnan for maintenance on the ground that Radhakrishnan is her husband. Therefore, I am satisfied that the 5th respondent's claim as legal heir of late P.V.Gopinathan Nair cannot be accepted. Since there

is no other dispute regarding the petitioner's claim for family pension as widow of late P.V.Gopinathan Nair, it is only proper that the 4th respondent issues legal heirship certificate to the petitioner. There would be a direction to the 4th respondent to do so within two weeks from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE